

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION**

**JILL DILLARD, JESSA SEEWALD,  
JINGER VUOLO, and JOY DUGGAR**

**PLAINTIFFS**

**vs.**

**CASE NO. 5:17-5089-TLB**

**CITY OF SPRINGDALE, ARKANSAS;  
WASHINGTON COUNTY, ARKANSAS;  
KATHY O’KELLEY, in her individual and  
official capacities;  
ERNEST CATE, in his individual and official capacities;  
RICK HOYT, in his individual and official capacities;  
STEVE ZEGA, in his official capacity;  
BAUER PUBLISHING COMPANY, L.P.;  
BAUER MAGAZINE, L.P.;  
BAUER MEDIA GROUP, INC.;  
BAUER, INC.;  
HEINRICH BAUER NORTH AMERICA, INC.;  
BAUER MEDIA GROUP USA, LLC; and  
DOES 1-10, inclusive**

**DEFENDANTS**

**ANSWER OF SPRINGDALE DEFENDANTS**

Separate Defendants, Kathy O’Kelley (“O’Kelley”), in her individual and official capacities; Ernest Cate (“Cate”), in his individual and official capacities; and the City of Springdale, Arkansas (“Springdale”) (collectively referred to herein as the “Springdale Defendants”), by and through the undersigned attorneys, for their Answer state the following:

**INTRODUCTION**

By order dated September 29, 2017, this Court dismissed the Plaintiffs’ claims under 42 U.S.C. § 1983 (Count 6 and 7) and claims under the Arkansas Civil Rights Act (Count 5) against O’Kelley in her official capacity, Cate, in his official capacity, and Springdale. Memorandum Opinion and Order, Docket No. 62. Additionally, the Eighth Circuit Court of Appeals dismissed the Plaintiffs’ federal constitutional claims against O’Kelley and Cate in their individual capacities

(Count 6). Mandate of the Eighth Circuit United States District Court, Docket No. 89. The Plaintiffs' only remaining claims against Cate, O'Kelley and Springdale are as follows:

- Against Cate and O'Kelley, individually, under the Arkansas Civil Rights Act (Count 5); and
- Against all Springdale Defendants for the torts of Invasion of Privacy – Public Disclosure of Private Facts (Count 1); Invasion of Privacy – Intrusion upon Seclusion (Count 3) and the Tort of Outrage (Count 4).

### **ANSWER**

1. Springdale Defendants admit that this action was brought by Jill Dillard, Jessa Seewald, Jinger Vuolo and Joy Duggar (the "Plaintiffs") against O'Kelley, Cate and Springdale and other parties to this action alleging various claim under federal and state law. The Springdale Defendants assert that to date, all claims against Springdale and against Cate and O'Kelley in their official capacities have been dismissed and that all federal claims against Cate and O'Kelley in their individual capacities have been dismissed. Springdale Defendants deny each and every remaining allegation contained in Paragraph one (1) of Plaintiffs' Complaint and deny any and all wrongdoing alleged.

2. Springdale Defendants admit that there was an investigation in 2006 into allegations of sexual assault, but deny each and every remaining allegation contained in Paragraph two (2) of Plaintiffs' Complaint and deny any and all wrongdoing.

3. Springdale Defendants admit that there was a FINS petition filed in Washington County Circuit Court, but deny each and every remaining allegation contained in Paragraph three (3) of Plaintiffs' Complaint and deny any and all wrongdoing.

4. Springdale Defendants deny the allegations contained in Paragraph four (4) of

Plaintiffs' Complaint.

5. Springdale Defendants deny the allegations contained in Paragraph five (5) of Plaintiffs' Complaint.

6. Paragraph six (6) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

7. Paragraph seven (7) of Plaintiffs' Complaint cites to an Arkansas statute and to orders issued by an Arkansas Circuit Judge. The statutes of Arkansas and orders issued by an Arkansas Circuit Court speak for themselves. Springdale Defendants therefore deny each and every allegation contained in Paragraph seven (7) and deny any and all wrongdoing alleged.

8. Paragraph eight (8) of Plaintiffs' Complaint cites to an Arkansas statute and contains no allegations. The statutes of Arkansas speak for themselves and to the extent Paragraph eight (8) contains any allegations, Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

9. Springdale Defendants deny the allegations contained in Paragraph nine (9) of Plaintiffs' Complaint.

10. Springdale Defendants deny the allegations contained in Paragraph ten (10) of Plaintiffs' Complaint.

11. Springdale Defendants deny the allegations contained in Paragraph eleven (11) of Plaintiffs' Complaint.

12. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph twelve (12) of Plaintiffs' Complaint, therefore they are denied.

13. Springdale Defendants deny the allegations contained in Paragraph thirteen (13) of

Plaintiffs' Complaint.

14. Springdale Defendants admit that the Court has jurisdiction pursuant to 28 U.S.C. § 1367(c) but deny the remaining allegations contained in Paragraph fourteen (14) of Plaintiffs' Complaint.

15. Springdale Defendants do not object to venue in this Court at this time.

16. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph sixteen (16) of Plaintiffs' Complaint, therefore they are denied.

17. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph seventeen (17) of Plaintiffs' Complaint, therefore they are denied.

18. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph eighteen (18) of Plaintiffs' Complaint, therefore they are denied.

19. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph nineteen (19) of Plaintiffs' Complaint, therefore they are denied.

20. Springdale Defendants admit the allegations contained in Paragraph twenty (20) of Plaintiffs' Complaint that Springdale is an Arkansas municipal corporation. The rest and remainder of Paragraph twenty (20) of Plaintiffs' Complaint contains conclusions of law and no factual allegations, and as such no response is required. To the extent that a response is deemed necessary, Springdale Defendants deny the same and further deny any and all allegations of wrongdoing.

21. Springdale Defendants admit the allegations contained in Paragraph twenty-one

(21) of Plaintiffs' Complaint that O'Kelley served as the Chief of Police during the events relevant to the claims of this action. Springdale Defendants deny the basis and characterization of the remaining allegations contained in Paragraph twenty-one (21) of Plaintiffs' Complaint, therefore they are denied.

22. Springdale Defendants admit the allegations contained in Paragraph twenty-two (22) of Plaintiffs' Complaint that Cate served as the City Attorney during the events relevant to the claims of this action. Springdale Defendants deny the basis and characterization of the remaining allegations contained in Paragraph twenty-two (22) of Plaintiffs' Complaint, therefore they are denied.

23. Springdale Defendants admit the allegations contained in Paragraph twenty-three (23) of Plaintiffs' Complaint that O'Kelley was an employee of Springdale and affirmatively state that Cate is an elected official of Springdale. The remaining allegations of Paragraph twenty-three (23) of Plaintiffs' Complaint contain conclusions of law and does not contain factual allegations, and as such no response is required. To the extent a response is deemed necessary, Springdale Defendants deny the same and further deny any and all allegations of wrongdoing.

24. Paragraph twenty-four (24) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

25. Paragraph twenty-five (25) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

26. Paragraph twenty-six (26) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every

allegation contained therein and deny any and all wrongdoing alleged.

27. Paragraph twenty-seven (27) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

28. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph twenty-eight (28) of Plaintiffs' Complaint, therefore they are denied.

29. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph twenty-nine (29) of Plaintiffs' Complaint, therefore they are denied.

30. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph thirty (30) of Plaintiffs' Complaint, therefore they are denied.

31. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph thirty-one (31) of Plaintiffs' Complaint, therefore they are denied.

32. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph thirty-two (32) of Plaintiffs' Complaint, therefore they are denied.

33. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph thirty-three (33) of Plaintiffs' Complaint, therefore they are denied.

34. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph thirty-four (34) of Plaintiffs' Complaint, therefore they are

denied.

35. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph thirty-five (35) of Plaintiffs' Complaint, therefore they are denied.

36. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph thirty-six (36) of Plaintiffs' Complaint, therefore they are denied.

37. Springdale Defendants deny the allegations contained in Paragraph thirty-seven (37) of Plaintiffs' Complaint.

38. Springdale Defendants admit the allegations contained in Paragraph thirty-eight (38) of Plaintiffs' Complaint.

39. Springdale Defendants admit the allegation that a phone call was placed to the Arkansas State Police Child Abuse Hotline on or about December 7, 2006, but deny the remaining allegations contained in Paragraph thirty-nine (39) of Plaintiffs' Complaint.

40. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph forty (40) of Plaintiffs' Complaint, therefore they are denied.

41. Springdale Defendants deny the allegations contained in Paragraph forty-one (41) of Plaintiffs' Complaint.

42. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph forty-two (42) of Plaintiffs' Complaint, therefore they are denied.

43. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph forty-three (43) of Plaintiffs' Complaint, therefore they are

denied.

44. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph forty-four (44) of Plaintiffs' Complaint, therefore they are denied.

45. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph forty-five (45) of Plaintiffs' Complaint, therefore they are denied.

46. Springdale Defendants admit that an FOIA request was submitted by Abtin Mehdizadegan to Springdale on or about May 15, 2015 and that the FOIA request speaks for itself, but deny all of the remaining allegations contained in Paragraph forty-six (46) of Plaintiffs' Complaint and deny any and all wrongdoing alleged.

47. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph forty-seven (47) of Plaintiffs' Complaint, therefore they are denied.

48. Springdale Defendants deny the allegations contained in Paragraph forty-eight (48) of Plaintiffs' Complaint.

49. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph forty-nine (49) of Plaintiffs' Complaint, therefore they are denied.

50. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph fifty (50) of Plaintiffs' Complaint, therefore they are denied.

51. Springdale Defendants admit the allegations contained in Paragraph fifty-one (51) of Plaintiffs' Complaint.

52. Springdale Defendants admit the allegations contained in Paragraph fifty-two (52)



of Plaintiffs' Complaint.

53. Springdale Defendants deny the allegations contained in Paragraph fifty-three (53) of Plaintiffs' Complaint.

54. Springdale Defendants deny the allegations contained in Paragraph fifty-four (54) of Plaintiffs' Complaint.

55. Pleading affirmatively that O'Kelley was adhering to the requirements of the Arkansas Freedom of Information Act, Springdale Defendants admit the allegations contained in Paragraph fifty-five (55) of Plaintiffs' Complaint.

56. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph fifty-six (56) of Plaintiffs' Complaint, therefore they are denied.

57. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph fifty-seven (57) of Plaintiffs' Complaint, therefore they are denied.

58. Springdale Defendants deny the allegations contained in Paragraph fifty-eight (58) of Plaintiffs' Complaint.

59. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph fifty-nine (59) of Plaintiffs' Complaint, therefore they are denied.

60. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph sixty (60) of Plaintiffs' Complaint, therefore they are denied.

61. Springdale Defendants deny the allegations contained in Paragraph sixty-one (61) of Plaintiffs' Complaint.

62. Springdale Defendants deny the allegations contained in Paragraph sixty-two (62) of Plaintiffs' Complaint.

63. Springdale Defendants deny the allegations contained in Paragraph sixty-three (63) of Plaintiffs' Complaint.

64. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph sixty-four (64) of Plaintiffs' Complaint, therefore they are denied.

65. Springdale Defendants deny the allegations contained in Paragraph sixty-five (65) of Plaintiffs' Complaint.

66. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph sixty-six (66) of Plaintiffs' Complaint, therefore they are denied.

67. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph sixty-seven (67) of Plaintiffs' Complaint, therefore they are denied.

68. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph sixty-eight (68) of Plaintiffs' Complaint, therefore they are denied.

69. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph sixty-nine (69) of Plaintiffs' Complaint, therefore they are denied.

70. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph seventy (70) of Plaintiffs' Complaint, therefore they are denied. Springdale Defendants further state hat the orders of the Circuit Court speak for themselves.

71. Springdale Defendants state that the orders of the Circuit Court speak for themselves. Springdale Defendants therefore deny each and every allegation contained in Paragraph seventy-one (71) and deny any and all wrongdoing alleged.

72. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph seventy-two (72) of Plaintiffs' Complaint, therefore they are denied. Springdale Defendants further state that the orders of the Circuit Court speak for themselves.

73. Pleading affirmatively, Springdale Defendants were not a party to the matter pending before the Circuit Court of Washington County referenced in Paragraph seventy-three (73) of Plaintiffs' Complaint. Springdale Defendants admits the allegations that the order of the Circuit Court was issued, but states that the order of the Circuit Court speaks for itself and deny any and all wrongdoing alleged.

74. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph seventy-four (74) of Plaintiffs' Complaint, therefore they are denied.

75. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph seventy-five (75) of Plaintiffs' Complaint, therefore they are denied.

76. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph seventy-six (76) of Plaintiffs' Complaint, therefore they are denied.

77. Paragraph seventy-seven (77) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

78. Springdale Defendants deny the allegations contained in Paragraph seventy-eight (78) of Plaintiffs' Complaint.

79. Springdale Defendants deny the allegations contained in Paragraph seventy-nine (79) of Plaintiffs' Complaint.

80. Springdale Defendants deny the allegations contained in Paragraph eighty (80) of Plaintiffs' Complaint.

81. Springdale Defendants deny the allegations contained in Paragraph eighty-one (81) of Plaintiffs' Complaint.

82. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph eighty-two (82) of Plaintiffs' Complaint, therefore they are denied.

83. Springdale Defendants deny the allegations contained in Paragraph eighty-three (83) of Plaintiffs' Complaint.

84. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph eighty-four (84) of Plaintiffs' Complaint, therefore they are denied.

85. Paragraph eighty-five (85) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

86. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph eighty-six (86) of Plaintiffs' Complaint, therefore they are denied.

87. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph eighty-seven (87) of Plaintiffs' Complaint, therefore they are denied.

88. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph eighty-eight (88) of Plaintiffs' Complaint, therefore they are denied.

89. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph eighty-nine (89) of Plaintiffs' Complaint, therefore they are denied.

90. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety (90) of Plaintiffs' Complaint, therefore they are denied.

91. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-one (91) of Plaintiffs' Complaint, therefore they are denied.

92. Paragraph ninety-two (92) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

93. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-three (93) of Plaintiffs' Complaint, therefore they are denied.

94. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-four (94) of Plaintiffs' Complaint, therefore they are denied.

95. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-five (95) of Plaintiffs' Complaint, therefore they are denied.

96. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-six (96) of Plaintiffs' Complaint, therefore they are denied.

97. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-seven (97) of Plaintiffs' Complaint, therefore they are denied.

98. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-eight (98) of Plaintiffs' Complaint, therefore they are denied.

99. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph ninety-nine (99) of Plaintiffs' Complaint, therefore they are denied.

100. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred (100) of Plaintiffs' Complaint, therefore they are denied.

101. Paragraph one hundred one (101) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

102. Springdale Defendants deny the allegations contained in Paragraph one hundred two (102) of Plaintiffs' Complaint.

103. Springdale Defendants deny the allegations contained in Paragraph one hundred three (103) of Plaintiffs' Complaint.

104. Springdale Defendants deny the allegations contained in Paragraph one hundred

four (104) of Plaintiffs' Complaint.

105. Springdale Defendants deny the allegations contained in Paragraph one hundred five (105) of Plaintiffs' Complaint.

106. Springdale Defendants deny the allegations contained in Paragraph one hundred six (106) of Plaintiffs' Complaint.

107. Springdale Defendants deny the allegations contained in Paragraph one hundred seven (107) of Plaintiffs' Complaint.

108. Paragraph one hundred eight (108) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

109. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred nine (109) of Plaintiffs' Complaint, therefore they are denied.

110. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred ten (110) of Plaintiffs' Complaint, therefore they are denied.

111. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred eleven (111) of Plaintiffs' Complaint, therefore they are denied.

112. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred twelve (112) of Plaintiffs' Complaint, therefore they are denied.

113. Springdale Defendants have insufficient information to admit or deny the

allegations contained in Paragraph one hundred thirteen (113) of Plaintiffs' Complaint, therefore they are denied.

114. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred fourteen (114) of Plaintiffs' Complaint, therefore they are denied.

115. Paragraph one hundred fifteen (115) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

116. Springdale Defendants deny the allegations contained in Paragraph one hundred sixteen (116) of Plaintiffs' Complaint.

117. Springdale Defendants deny the allegations contained in Paragraph one hundred seventeen (117) of Plaintiffs' Complaint.

118. Springdale Defendants deny the allegations contained in Paragraph one hundred eighteen (118) of Plaintiffs' Complaint.

119. Springdale Defendants deny the allegations contained in Paragraph one hundred nineteen (119) of Plaintiffs' Complaint.

120. Springdale Defendants deny the allegations contained in Paragraph one hundred twenty (120) of Plaintiffs' Complaint.

121. Paragraph one hundred twenty-one (121) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

122. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred twenty-two (122) of Plaintiffs' Complaint,



therefore they are denied.

123. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred twenty-three (123) of Plaintiffs' Complaint, therefore they are denied.

124. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred twenty-four (124) of Plaintiffs' Complaint, therefore they are denied.

125. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred twenty-five (125) of Plaintiffs' Complaint, therefore they are denied.

126. Springdale Defendants have insufficient information to admit or deny the allegations contained in Paragraph one hundred twenty-six (126) of Plaintiffs' Complaint, therefore they are denied.

127. Paragraph one hundred twenty-seven (127) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

128. Springdale Defendants deny the allegations contained in Paragraph one hundred twenty-eight (128) of Plaintiffs' Complaint.

129. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph one hundred twenty-nine (129) of Plaintiffs' Complaint, there they are denied.

130. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph one hundred thirty (130) of Plaintiffs' Complaint, there they are denied.

131. Springdale Defendants deny the allegations contained in Paragraph one hundred thirty-one (131) of Plaintiffs' Complaint.

132. Springdale Defendants deny the allegations contained in Paragraph one hundred thirty-two (132) of Plaintiffs' Complaint.

133. Paragraph one hundred thirty-three (133) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

134. Springdale Defendants deny the basis and characterization of the allegations contained in Paragraph one hundred thirty-four (134) of Plaintiffs' Complaint, there they are denied.

135. Springdale Defendants deny the allegations contained in Paragraph one hundred thirty-five (135) of Plaintiffs' Complaint.

136. Springdale Defendants deny the allegations contained in Paragraph one hundred thirty-six (136) of Plaintiffs' Complaint.

137. Springdale Defendants deny the allegations contained in Paragraph one hundred thirty-seven (137) of Plaintiffs' Complaint.

138. Springdale Defendants deny the allegations contained in Paragraph one hundred thirty-eight (138) of Plaintiffs' Complaint.

139. Paragraph one hundred thirty-nine (139) of Plaintiffs' Complaint contains no allegations against the Springdale Defendants, but to the extent it does the Springdale Defendants deny each and every allegation contained therein and deny any and all wrongdoing alleged.

140. Springdale Defendants deny the allegations contained in Paragraph one hundred forty (140) of Plaintiffs' Complaint.

141. Springdale Defendants deny the allegations contained in Paragraph one hundred forty-one (141) of Plaintiffs' Complaint.

142. Springdale Defendants deny the allegations contained in Paragraph one hundred forty-two (142) of Plaintiffs' Complaint.

143. Springdale Defendants deny the allegations contained in Paragraph one hundred forty-three (143) of Plaintiffs' Complaint.

144. Springdale Defendants deny the allegations in the Prayer For Relief section of the Complaint and deny that the Plaintiffs are entitled to the requested relief.

145. Springdale Defendants respectfully demand a trial by jury on all issues of material fact to be decided by a jury.

146. Springdale Defendants deny any and all allegations not specifically admitted to herein.

#### **AFFIRMATIVE DEFENSES**

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

2. Springdale Defendants avail themselves to all applicable statutes of limitations.

3. Springdale Defendants avail themselves of all doctrines of immunities under the law, including, but not limited to absolute, tort, punitive damages, qualified, good faith, legislative, sovereign and statutory immunities.

4. Springdale Defendants assert that no violation of Plaintiffs' rights or privileges secured to them by the United States Constitution, Arkansas Constitution, federal or state laws occurred nor did they, individually or in concert with others, violate any such rights or privileges of the Plaintiffs.

5. At all times relevant the Springdale Defendants acted with a reasonable good faith

belief that their actions did not violate any of the Plaintiffs' clearly established rights or privileges.

6. Springdale Defendants asserts that any actions taken by Springdale Defendants were lawful and legitimate.

7. Springdale Defendants incorporate herein the affirmative defenses of all other defendants in this lawsuit.

8. To the extent that the Plaintiffs seek punitive damages, such relief would violate Springdale's right to protection from excessive fines, their right to substantive due process, and all other rights under the United States Constitution, the Arkansas Constitution, and federal and state law, and therefore, any claim for punitive damages against Springdale should be dismissed.

9. Plaintiffs' damages, if any, were proximately caused by the acts of others beyond the control of Springdale Defendants and whose fault should be compared.

10. The City of Springdale cannot be liable as a matter of law for any torts alleged to have been committed by any defendants because the actions of the employees would be beyond the scope of employment.

11. Springdale Defendants assert the affirmative defenses of estoppel, laches, waiver, unclean hands, set-off and all other affirmative defenses listed in Fed. R. Civ. P. 8.

12. Springdale Defendants reserve the right to plead further affirmative defenses as may become necessary in this action.

WHEREFORE the Springdale Defendants respectfully request that this Court deny Plaintiffs' Motion for Leave to File an Amended Complaint as to the Springdale Defendants, and for all other just and proper relief.

Respectfully Submitted,

/s/ Thomas N. Kieklak  
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**COUNSEL FOR SPRINGDALE  
DEFENDANTS**

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that on the 8<sup>th</sup> day of November, 2017, a true and correct copy of the above and foregoing Response to Motion for Leave on Behalf of Separate Defendants was filed with the Clerk via the CM/ECF system which will send notification of filing to the following:

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/s/Thomas N. Kieklak  
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